IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.1085 OF 2004
IN
NOTICE OF MOTION NO.____ OF 2004
IN
S.C.SUIT NO.5593 OF 2004

The New India Assurance Company Ltd.).. Appellant

Versus

Metal Box India Ltd.).. Respondent

Mr.V.Y.Sanglikar for the Appellant.

Mr.Mushtafa Doctor i/b.D.H.Law Associates
for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 14TH DECEMBER 2004

P.C.:

. Ad-interim relief has been granted by the trial Court directing the Appellant-original Defendant not to implement the Circular dated 11th November 2004 in respect of parking of the cars in the open space available. This order will be limited only qua the Respondent-original Plaintiff. The Notice of Motion has already been made returnable on 28th January 2005. The Appellant will file reply to the Motion and the Motion will be heard expeditiously.

2. Mr.Sanglikar has raised several issues as to

whether such an order could have been passed in the face of the judgment of this Court in *Morarji Goculdas Deoji Trust and others* vs. *Madhav Vithal Kudwa*, **AIR 1983 BOMBAY 68** and the judgment of the Supreme Court in *Ashoka Marketing Ltd. and another* vs. *Punjab National Bank and others*, **AIR 1991 SC 855**. The trial Court will obviously consider these judgments and any other that might be brought to its notice by the parties while deciding the Motion.

3. Appeal From Order disposed of accordingly.

4. In view of the Appeal From Order being disposed of, nothing survives in Civil Application No.1542 of 2004 and the same is disposed of accordingly.